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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,523	01/22/2002	George M. White	2222.0820005	5053
26111 7590 08/11/2009 STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER				
LERNER, MARTIN				
ART UNIT		PAPER NUMBER		
2626				
MAIL DATE		DELIVERY MODE		
08/11/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/057,523	Applicant(s) WHITE ET AL.
Examiner MARTIN LERNER	Art Unit 2626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Martin Lerner/
Primary Examiner, Art Unit 2626

Continuation of 11, does NOT place the application in condition for allowance because:

Applicants' arguments submitted after final rejection are not persuasive. On the surface, Applicants' argument traversing the rejection under 35 U.S.C. §112, 1st ¶, may appear to have some merit, whereby a nexus is suggested between ¶[0014] and ¶[0073]. However, the argument is fully not convincing because ¶[0073] does not provide a definition of what constitutes "data" for all purposes. The term "data" is only being used generically, and there is no definition of what constitutes "data" in the Specification. Thus, ¶[0073] only describes what "data" is received, while ¶[0014] only describes what "data" is downloaded. The Specification, as originally-filed, does not anywhere clearly and expressly disclose that control signals are downloaded, although it is clearly and expressly disclosed that keywords for grammars, prompts, and news sources can be downloaded. Any connection between ¶[0014] and ¶[0073] is tenuous because the term "data" is being used generically without an explicit definition.

Applicants' arguments directed to the rejection under 35 U.S.C. §102(a) are not fully persuasive either. Applicants appear to admit that Houser et al. discloses downloading vocabulary, but not downloading control signals. Applicants suggest that the rejection should be formulated under 35 U.S.C. §103(a) because Houser et al. does not expressly disclose downloading additional control signals. Again, however, it is maintained that Applicants are being inconsistent in their requirements for a disclosure of downloading additional control signals. They wish to have a lax standard for meeting their own requirements for disclosure under 35 U.S.C. §112, 1st ¶, but to impose a harsh standard for meeting the disclosure requirements from the prior art under 35 U.S.C. §102(a). However, it should be reasonably clear to one skilled in the art to that the supplemental vocabularies of Houser et al. implement control signals, at most by inherency, if necessary, because it is stated "this second vocabulary permits a user to use spoken language to implement basic television control, EPG control, VCR control, and event programming". (Column 23, Lines 45 to 50) That is, Houser et al. expressly uses the term "control" and "implementation" to describe how the second vocabulary provides a function that did not exist before, i.e., "an additional control signal . . . for directing an additional action". At best, a lack of disclosure by Houser et al. of the term "signal" is still met by inherency because recognized commands from the second vocabulary for control inherently trigger an associated signal. Typically, this is referred to in the art as a keyword-value pair.